

## **EXHIBIT A**

## UNITED STATES DISTRICT COURT

for the  
Western District of Washington

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CLERK U.S. DISTRICT COURT WESTERN DISTRICT OF WASHINGTON AT TACOMA	
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In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

SEE ATTACHMENT A

Case No. MJ10-5191

## APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property (identify the person or describe the property to be searched and give its location):

See Attachment A, which is incorporated herein by reference

located in the Western District of Washington, there is now concealed (identify the person or describe the property to be seized):

See Attachments B-1 and B-2, which are incorporated herein by reference

The basis for the search under Fed. R. Crim. P. 41(c) is (check one or more):

- ☒ evidence of a crime;  
☒ contraband, fruits of crime, or other items illegally possessed;  
☒ property designed for use, intended for use, or used in committing a crime;  
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

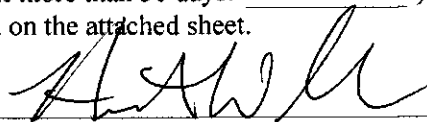
Code Section  
18 U.S.C. § 922(a)(1)(A)

Offense Description  
Unlawful Dealing Firearms

The application is based on these facts:

See attached Affidavit of Special Agent Heidi Wallace, attached hereto and incorporated herein.

- ☒ Continued on the attached sheet.  
☐ Delayed notice of        days (give exact ending date if more than 30 days:       ) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.

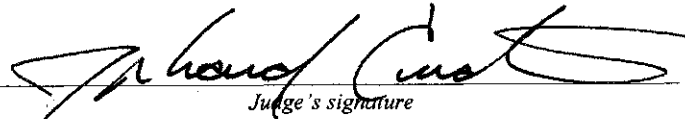


Applicant's signature

Special Agent Heidi Wallace, Affiant

Printed name and title

Sworn to before me and signed in my presence.

Date: 11/17/10City and state: Tacoma, Washington


Judge's signature

J. RICHARD CREATURA, U.S. Magistrate Judge

Printed name and title

Nick Brown

**AFFIDAVIT**

STATE OF WASHINGTON        }  
COUNTY OF PIERCE        }       ss

I, HEIDI WALLACE, being first duly sworn, do hereby depose and say:

**INTRODUCTION AND AGENT BACKGROUND**

1. I am a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), assigned to the Seattle, Washington, Field Office. I have been an ATF Special Agent since 2003. As such, I have conducted numerous investigations of violations of federal firearms laws. Prior to becoming a Special Agent, I worked at the ATF laboratory in Ammendale, Maryland, for a year and a half as an Integrated Ballistics Identification System (IBIS) Specialist. I have a Bachelor's Degree in Sociology from the University of Michigan, and have completed the Federal Law Enforcement Training Center Criminal Investigators program, the ATF New Professional Training for Special Agents program and the ATF Advanced Interstate Nexus of Firearms and Ammunition course.

2. As a result of my training and experience as an ATF Special Agent, I am familiar with federal criminal laws governing firearms. I know that Title 18, United States Code, Section 922(a)(1)(A), makes it unlawful for any person except a licensed importer, manufacturer or licensed dealer to engage in the business of dealing in firearms or in the course of such business to ship, transport or receive any firearm in the interstate or foreign commerce. This Affidavit is based upon my own investigation, as well as upon information provided to me, and my review of reports prepared by other law enforcement personnel.

3. I make this Affidavit in support of an application for a warrant to search the residences of the following individuals:

a. Mark SKILES, located at 651 Alder Creek Ln NE, Belfair,

1 Washington 98528, as more fully described in Attachment A;

2 b. Kenneth GUSSONI, located at 140 Broad St W, Bremerton,  
3 Washington 98312, as more fully described in Attachment A;

4 c. Roy S. ALLOWAY located at 9468 Phillips Rd SE, Port Orchard,  
5 Washington 98367, as more fully described in Attachment A and

6 d. David DEVENNEY, located at 9610 Old Highway 99, Olympia,  
7 Washington 98501, as more fully described in Attachment A.

8 The Affidavit is submitted in support of the application to search the above  
9 residences and seize the items more fully described in Attachments B-1 and B-2, which  
10 are attached to this Affidavit and incorporated herein by reference. As set forth below,  
11 there is probable cause to believe that each residence contains evidence of the following  
12 violation of federal law: Title 18, United States Code, Section 922(a)(1)(A). This  
13 Affidavit is submitted solely for the purpose of establishing probable cause for the search  
14 warrant and does not purport to set forth all of my knowledge of, or investigation into, the  
15 offense.

#### 16 **FEDERAL FIREARM LICENSING AND RELATED LAWS**

17 4. A Federal Firearms License (FFL) is a license that enables an individual or  
18 a company to engage in a business pertaining to the manufacture and/or sale of firearms  
19 and ammunition.<sup>1</sup> Having an FFL is a prerequisite for “engaging the in the business” of  
20 firearm sales.

21 5. Title 18, United States Code, Section 922(a)(1) states in pertinent part:

22 It shall be unlawful . . . for any person except a . . . licensed dealer to engage in the  
23 business of dealing in firearms . . .

24 The term “engage in the business of” is defined as:

25 . . . a person who devotes time, attention, and labor to dealing in firearms as a  
26 regular course of trade or business with the principal objective of livelihood and  
27 profit through the repetitive purchase and resale of firearms, but shall not include a  
28 person who makes occasional sales, exchanges, or purchases of firearms for the  
enhancement of a personal collection or for a hobby or who sells all or part of a

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<sup>1</sup> The term FFL is used to mean both a federal firearms license and federal firearms licensee.  
The term will be used interchangeably through out this affidavit.

1 personal collection.

2 18 U.S.C. § 921(c).

3 The term "principal objective of livelihood and profit" means:

4 . . . that the intent underlying the sale or disposition of firearms is  
 5 predominantly one of obtaining livelihood and pecuniary gain, as opposed to other  
 6 intents, such as improving or liquidating a personal firearms collection: *Provided*,  
 7 That proof of profit shall not be required as to a person who engages in the regular  
 8 and repetitive purchase and disposition of firearms for criminal purposes or  
 9 terrorism.

10 18 U.S.C. § 921(a)(22).

11 6. Any time an FFL sells a firearm, the purchaser is required to fill out an ATF  
 12 Form 4473. **See Attachment C.** FFL's are required to maintain all 4473s. Additionally,  
 13 an FFL must report every handgun sold to the State of Washington Department of  
 14 Licensing, firearms section who maintains records of all handguns sold in the state based  
 15 upon the reports filed by the FFL. Another ATF requirement involves multiple sales of  
 16 firearms. When an individual purchases two or more handguns from an FFL, the FFL  
 17 must fill out a Multiple Sales Form and send a copy to the ATF. **See Attachment D.** A  
 18 separate Washington State pistol transfer form is completed anytime a handgun is  
 19 purchased in the state of Washington from a licensed dealer. This form includes  
 20 information about the purchaser, firearm and which dealer sold the firearm and when. A  
 21 copy of this is mailed to the Washington State Department of Licensing and to local law  
 22 enforcement of where the purchaser lives.

### 23 SUMMARY OF INVESTIGATION

24 7. In approximately May 2009, ATF agents initiated an investigation into the  
 25 unlawful firearms dealing by individuals at local gun shows in the Western District of  
 26 Washington. The ATF was able to determine that some of the weapons sold at these gun  
 27 shows were subsequently used during the commission of crimes in the area. Undercover  
 28 agents attended various gun shows and observed numerous "private sellers" selling guns.  
 It became obvious that many of these private sellers were in the business of selling  
 firearms and not simply selling guns from their private collection. This observation was  
 based on the number of firearms they had displayed, the type of firearms they had for

1 sale, and the manner in which they were displayed. The ATF also noticed that some  
 2 individuals regularly rented space at the gun shows, always had a large number of  
 3 handguns for sale, and rarely generated any paperwork other than a written receipt  
 4 required at certain gun shows. During the course of the investigation, multiple ATF  
 5 Undercover Agents (UC) attended these various gun shows posing as interested weapons  
 6 purchasers and carrying surveillance equipment. In most instances, the conversations  
 7 between ATF UCs and the individuals discussed in this Affidavit either audio or video  
 8 recorded.

### 9 MARK SKILES AND KENNETH GUSSONI INVESTIGATION

10 8. Two of the targets of this investigation are Mark SKILES and Kenneth  
 11 GUSSONI. On February 10, 2003, SKILES applied for a Federal Firearms License with  
 12 the ATF. In his application he indicated that he intended to sell new and used firearms  
 13 for a profit. SKILES further stated that he intended to store his firearms in a commercial  
 14 gun safe in the bedroom of his residence. He also denied that he was currently engaged in  
 15 a business requiring a Federal Firearms License.

16 9. On May 6, 2003, ATF Inspector Sandra Sherlock met with SKILES  
 17 regarding his application. She reviewed the Acknowledgment of Federal Firearms  
 18 Regulations with him, ATF Forms (including Form 4473), and the record keeping  
 19 requirements. She inquired about the nature of his activity to determine if it constituted  
 20 engaging in the business of dealing firearms and advised SKILES of the applicable laws  
 21 and regulations regarding conduct of business. He was also provided a copy of the  
 22 Federal Firearms Regulations. This book of regulations contains the definition of  
 23 who is a "dealer" and the meaning of "engaging in the business" of dealing firearms.

24 **Dealer.** Any person engaged in the business of selling firearms at wholesale  
 25 or retail; any person engaged in the business of repairing firearms or of making or  
 26 fitting special barrels, stocks, or trigger mechanisms to firearms; or any person  
 who is a pawnbroker. The term shall include any person who engages in such  
 business or occupation on a part-time basis. 27, CFR, Section 478.11

27 **Dealer in firearms other than a gunsmith or a pawnbroker.** A person who  
 28 devotes time, attention, and labor to dealing in firearms as a regular course of trade  
 or business with the principal objective of livelihood and profit through the  
 repetitive purchase and resale of firearms, but such a term shall not include a

1 person who makes occasional sales, exchanges, or purchases of firearms for the  
2 enhancement of a personal collection or for a hobby, or who sells all or part of his  
personal collection of firearms. 27 CFR, Section 478.11

3 10. The inspector also covered the regulations regarding sales of firearms at a  
4 gun show. This states:

5 **Conduct of business away from licensed premises.** (a) (1) A licensee may  
6 conduct business temporarily at a gun show or event as defined in paragraph (b) if  
the gun show or event is located in the same State specified on the license:  
7 **Provided,** that such business shall not be conducted from any motorized or towed  
vehicle. The premises of the gun show or event at which the licensee conducts  
8 business shall be considered part of the licensed premises. Accordingly, no  
separate fee or license is required for the gun show or event locations. However,  
9 licensees shall comply with the provisions of § 478.91 relating to posting of  
licenses (or a copy thereof) while conducting business at the gun show or event.

10 11. After reviewing the law, the requirements, and regulations with Skiles she  
11 noted the following: "The applicant was attentive of his FFL responsibilities" and that he  
12 "appears to have a good understanding of his responsibilities as an FFL."

13 12. In June 2003, SKILES was issued an FFL through the ATF. The name of  
14 the business was "M&J Services." SKILES' license remained active until July 2006,  
15 when the license expired without a renewal request.

16 13. In May 2009, I received an ATF Multiple Sales (MS) report that showed  
17 Mark SKILES had recently purchased nine handguns from a particular gun store in  
18 Tacoma, Washington. According to this database, SKILES had purchased the following  
19 firearms within the six months prior to May 2009:

- 20 • December 18, 2008, two handguns
- 21 • March 20, 2009, five handguns
- 22 • March 26, 2009, eleven handguns
- 23 • March 28, 2009, two handguns
- April 15, 2009, eleven handguns
- April 24, 2009, twelve handguns
- April 30, 2009, nine handguns

24 14. In total, Mark SKILES had purchased fifty-two (52) firearms in this six-  
25 month period. Out of the fifty-two handguns purchased, fifty were purchased from one  
26 FFL in Tacoma. Fourteen handguns were manufactured by Cobra Enterprises, six by  
27 Taurus, six by Phoenix Arms, and remaining firearms from numerous other  
28 manufacturers that make inexpensive handguns.



1        15. When purchasing these firearms from a licensed dealer (FFL), SKILES was  
2 required to complete and sign an ATF Form 4473. This form is required to be filled out  
3 by every individual who purchases a firearm from a FFL. The first page and second page  
4 is filled out by the purchaser. Other than the signature block for the purchaser, the rest of  
5 the second page and part of a third page are completed by the dealer.<sup>2</sup> The additional  
6 pages include definition, notices and instructions pertaining to the form. In the section on  
7 the second page, immediately above the buyer's signature there is a sentence that states,  
8 "I further understand that the repetitive purchase of firearms for the purpose of resale for  
9 livelihood and profit without a Federal firearms license is a violation of the law (See  
10 Instructions for Question 16)." Under Question 16 on page 5 of the form, the definition  
11 of "Engaged in the Business" under Title 18 U.S.C. Section 922(a)(1) is stated. It also  
12 states that a "license is not required of a person who only makes occasional sales,  
13 exchanges, or purchases of firearms for the enhancement of a personal collection or for a  
14 hobby or who sells all or part of his or her personal collection of firearms." Thus, every  
15 time SKILES filled out and signed this form, he acknowledged the wording on the form  
16 and was advised that selling firearms for a profit without a federal firearms license was  
17 illegal.

18        16. On June 19, 2009, MS forms indicated that SKILES purchased eight  
19 firearms from an FFL, including six Cobra Enterprise .38 caliber Derringer pistols and  
20 two Romarm pistols.

21        17. On June 20, 2009, an ATF Undercover Agent (UC-1) attended the Centralia  
22 Gun Show located at the Southwest Washington Fairgrounds. Prior to entering the show,  
23 I told the UC about SKILES' purchases of multiple firearms and showed him a  
24 Washington drivers license photo of SKILES. The UC-1 entered the gun show, identified  
25 SKILES behind one of the tables, and started looking at the firearms. SKILES had  
26 multiple Derringer pistols of similar manufacturer and model which all appeared to be  
27

28        <sup>2</sup> By signing the form, the purchaser is attesting to the truthfulness of the information and  
acknowledges the other information contained in the form.



1 brand new. The UC-1 purchased a .22 caliber Derringer pistol for \$200 from SKILES.  
2 He asked SKILES for a business card or contact information in case something was  
3 wrong with the gun. In a recorded conversation, SKILES said he didn't have any  
4 business cards because he was a private seller, but then added that nothing should be  
5 wrong with the gun because it was brand new and had never been fired. The firearm  
6 purchased was a Cobra Enterprises, model C22MSW, with serial number 039676. A  
7 receipt was provided to the UC-1, but no additional paperwork.

8 18. On June 20, 2009, ATF UC-2 went to the Centralia Gun Show to look for  
9 previously identified subjects who were suspected of dealing without a firearms license.  
10 While at the show the UC-2 identified SKILES by the photograph I showed him before he  
11 entered the show. The UC-2 also noticed a second subject at the same table as SKILES  
12 who later introduced himself as "Ken." "Ken" was subsequently identified as Kenneth  
13 GUSSONI. The UC-2 observed approximately ten long guns and approximately fifteen  
14 handguns on display for sale. The majority of handguns included a 3"x5" card with a  
15 short description of the handgun and the sales price.

16 19. While UC-2 watched the table, both GUSSONI and SKILES participated in  
17 the sales that occurred at their table. For example, when an unknown individual came up  
18 to purchase a firearm at the table, GUSSONI told the buyer about the firearm and  
19 SKILES took the money and wrote out a receipt. UC-2 spoke to GUSSONI about the  
20 different firearms at the table. GUSSONI stated he was from Bremerton and that both he  
21 and SKILES work many gun shows together and would have a table at the next Puyallup  
22 gun show.

23 20. UC-2 purchased an Intratec model Tec-9 with serial number A023973 and a  
24 Cobra Enterprises, .22 caliber Derringer pistol with serial number CT068298. GUSSONI  
25 described the advantages and disadvantages both firearms to the UC. SKILES took the  
26 money from GUSSONI (who originally got it from the UC-2) and wrote out a show  
27 receipt for the firearms. On the back of the receipt GUSSONI wrote his cell phone  
28 number and told UC-2 to call if he wanted any additional firearms or if there was any

1 problem with them. Before UC-2 left the table he noted the serial number for a Charter  
2 Arms firearm that was displayed. The serial number was 93473.

3 21. The following week, I compared the firearms purchased or viewed by the  
4 UCs at SKILES' table with those listed on the MS records I previously obtained. The MS  
5 records showed that SKILES purchased the Cobra Enterprise with serial number 039676  
6 on April 30, 2009, and the other Cobra on June 19, 2009. The Tec 9 was purchased by  
7 another individual other than SKILES in January 2009. The Charter Arms with serial  
8 number 93473 that was viewed by the UC at his table was purchased by SKILES on April  
9 24, 2009. I believe this information is significant because it illustrates the SKILES  
10 bought and sold these firearms within a two month period, consistent with his repetitive  
11 sale of firearms for a profit.

12 22. MS forms indicate that on July 31, 2009, SKILES purchased four handguns  
13 from an FFL, which included three Keltec pistols and one Jennings pistol. The MS forms  
14 list the residence in Belfair, Washington, as SKILES' current residence.

15 23. MS forms indicate that on October 23, 2009, SKILES purchased six  
16 handguns from an FFL, which included two Cobra Enterprise Derringers very similar to  
17 the previous ones he purchased. The MS forms list the residence in Belfair, Washington,  
18 as SKILES' current residence.

19 24. On November 7, 2009, another ATF UC-3 attended the Washington Arms  
20 Collector (WAC) gun show in Monroe, Washington. I gave the UC-3 information about  
21 SKILES and his recent purchases on October 23, 2009. I also gave him information  
22 about GUSSONI and told him that he usually sells firearms at the same table with  
23 SKILES. UC-3 approached a table and recognized GUSSONI standing behind it. He  
24 then started looking through the handguns that were on the table. He noted that there  
25 were approximately twenty handguns for sale and then found two of the firearms that I  
26 had described to him. The price tag on each read \$260. GUSSONI told UC-3 that the  
27 handguns were new and had never been fired. UC-3 asked GUSSONI how much for both  
28 handguns and he replied \$475. UC-3 purchased both handguns, two Cobra Enterprises,

1 model CLB 38, .39 caliber Derringers with serial number CT069183 and CT063928.  
2 SKILES was not present during this transaction.

3 25. After UC-3 left the gun show, I checked the serial numbers of the firearms  
4 purchased by UC-3 and discovered that both firearms were purchased on October 23,  
5 2009, by Mark SKILES. Again, this type of short turnaround between the purchase of  
6 firearms by SKILES and subsequent sale is indicative of unlawful dealing in firearms.

7 26. On November 7, 2009, UC-1 attended the WAC gun show in Monroe,  
8 Washington. UC-1 was also given information about SKILES and GUSSONI prior to the  
9 gun show. UC-1 entered the gun show and located a table that GUSSONI was standing  
10 behind. UC-1 noted that several handguns in new condition were on the table. SKILES  
11 was also present at the table when the UC-1 attempted a purchase. SKILES recognized  
12 UC-1 from a previous purchase he made from him on June 20, 2009. UC-1 contacted  
13 GUSSONI about purchasing a .380 caliber Derringer. In a recorded conversation,  
14 GUSSONI stated that he did not have any .380 caliber Derringers on his table, but told  
15 the UC-1 "I'll see what I can do." GUSSONI also mentioned that he would be at the next  
16 Puyallup gun show on November 14, 2009. The UC-1 left without making a purchase.

17 27. On November 14, 2009, an ATF UC-4 contacted GUSSONI at the WAC  
18 gun show in Puyallup, Washington. UC-4 asked GUSSONI if paperwork needed to be  
19 filled out if he purchased a firearm. In a recorded conversation, GUSSONI told him  
20 because it would be a private sale, just as if he sold the firearm on the street to UC-4. The  
21 UC asked GUSSONI questions about him selling at gun shows. GUSSONI told UC-4  
22 that he could no longer work a regular job, so this was his source of income. UC-4 asked  
23 GUSSONI if he made enough to "put food on the table" and he said he did. After this  
24 brief discussion, UC-4 left the table to observe the rest of the show, but returned to  
25 GUSSONI's table a little later on. UC-4 decided to purchase a Citadel, model 1911A1,  
26 .45 caliber pistol with serial number CIT001631. Next to this firearm was a 3"x5" card  
27 that said "never fired" and a sales price of \$550. GUSSONI told UC-4 that he would give  
28 him a good price for the firearm and UC-4 asked what that would be. GUSSONI said that

1 he would sell it for \$525 and UC-4 countered with \$500 and GUSSONI shook the hand  
2 of the UC signifying it was a deal. UC-4 paid GUSSONI \$500 and GUSSONI removed  
3 the 3" x 5" card and put the firearm in a gun box. UC-4 continued to converse with  
4 GUSSONI about how he (the UC) could start selling firearms at the gun shows.  
5 GUSSONI told UC-4 to walk around the gun shows looking for good deals, buy some  
6 firearms, and resell them at a profit. He also told UC-4 to buy firearms from friends and  
7 acquaintances to build up an inventory. GUSSONI told UC-4 that he attends about 42  
8 gun shows per year.

9 28. MS forms indicated that on March 11, 2010, Mark SKILES purchased four  
10 handguns from an FFL in Tacoma, Washington. He purchased two Cobra Enterprises,  
11 .45 caliber pistols and two .22 caliber pistols. The MS forms list the residence in Belfair,  
12 Washington, as SKILES' current residence.

13 29. MS forms indicated that on March 26, 2010, SKILES purchased four  
14 handguns from the same FFL in Tacoma, Washington. Two pistols and two revolvers  
15 were purchased by SKILES of various calibers and manufacturers. The MS forms list the  
16 residence in Belfair, Washington, as SKILES' current residence.

17 30. MS forms indicated that on April 23, 2010, SKILES purchased eight  
18 handguns from the same FFL in Tacoma, Washington. Two of the handguns were Bersa,  
19 model Thunder, .380 caliber pistols, three 9mm pistols including two Smith & Wesson,  
20 Sigma models and a Beretta, model M9, two revolvers and two other pistols that were of  
21 different calibers and manufacturers. The MS forms list the residence in Belfair,  
22 Washington, as SKILES' current residence.

23 31. On May 14, 2010, SKILES purchased an additional four handguns from the  
24 same FFL in Tacoma, Washington. This purchase of firearms included two 9mm pistols,  
25 a .45 caliber pistol and a .38 caliber revolver all of various makes and models. Again, the  
26 MS forms also list the residence in Belfair, Washington, as SKILES' current residence.

27 32. On May 15, 2010, UC-4 contacted SKILES and GUSSONI at their table at  
28 the WAC gun show in Puyallup, Washington. In a recorded conversation, SKILES began

1 talking to the UC as he looked at the firearms displayed on the table. SKILES told UC-4  
2 that he bought "used" firearms from an FFL. These firearms were usually firearms  
3 returned to the FFL after buying it new. The FFL would in turn sell the firearms to  
4 SKILES "used" for the FFL's cost (wholesale price) and then SKILES would re-sell them  
5 at the gun shows. SKILES said that he had an arrangement with the FFL because once a  
6 firearm leaves an FFL it can not be re-sold as "new" even if the firearm was never fired.  
7 This arrangement with the FFL not only allowed him to make a profit, but it also kept the  
8 FFL from taking a loss on the firearm. SKILES said that all of his firearms came from an  
9 FFL, but he did not tell UC-4 which one it was.

10 33. SKILES then told UC-4 that he had been an FFL at one time. SKILES  
11 complained about the process of becoming an FFL, saying it took too long to process his  
12 paperwork and described the record keeping requirements associated with having an FFL.  
13 SKILES described the paperwork needed to handle MS sales and said that overall the  
14 paperwork was too much hassle. SKILES preferred "private sales" because they did not  
15 require any paperwork. SKILES stated that with the money he has made at gun shows,  
16 combined with a disability pension, he could make a living. SKILES also stated he does  
17 some gunsmithing on the side. UC-4 left the table after having this conversation.

18 34. A short time later, UC-4 returned and GUSSONI was standing behind the  
19 tables adjoining SKILES' and watching over SKILES' tables while he was away. UC-4  
20 talked to GUSSONI about their tables and GUSSONI said that he and SKILES were  
21 partners and that he had the authority to negotiate prices for SKILES firearms. Soon  
22 SKILES returned and UC-4 selected two firearms to purchase, a Hi Point, .45 caliber  
23 pistol with serial number X4128414 and a S&W, Sigma model, 9mm pistol with serial  
24 number DST1344. UC-4 asked how much it would be to purchase both firearms, and then  
25 he watched as both of them decided on a price. UC-4 noticed that although both firearms  
26 were on tables in front of SKILES, the S&W, Sigma was GUSSONI's firearm and so he  
27 had to agree on the price. When a price of \$600 for both firearms was agreed upon,  
28 GUSSONI shook the hand of the UC. UC-4 paid GUSSONI for the firearms. SKILES

1 said that no additional paperwork was needed, but that he could write him up a bill of sale  
2 if needed, but the UC declined. Before leaving the table, UC-4 told SKILES that he was  
3 interested in possibly selling firearms. SKILES recommended that he find an FFL, like  
4 he did, who would funnel "used" firearms to him for resale. SKILES then pointed at  
5 GUSSONI and told him to learn about it from GUSSONI because he was a great teacher  
6 on the subject. Both men told UC-4 that they would be at the gun show in  
7 Chehalis/Centralia the following weekend.

8 35. On May 22, 2010, UC-4 attended the gun show in Centralia, Washington.  
9 UC-4 stopped at the table where GUSSONI was standing and noticed several handguns  
10 displayed. UC-4 asked him if "his partner" (SKILES) was at the show and GUSSONI  
11 said no. UC-4 asked GUSSONI if any FFL would sell returned inventory to him like they  
12 did for SKILES. In a recorded conversation, GUSSONI said that usually "mom and pop"  
13 stores were more likely to work with someone on re-sales of returned inventory but that  
14 larger stores were less likely to make such an agreement. UC-4 then left the table only to  
15 return a short time later. Stopping back at GUSSONI's table, UC-4 picked out two  
16 firearms of interest. A Ruger, model LCP, .380 caliber pistol with serial number 373-  
17 40511 and a Rohm, .38 caliber Derringer with serial number 34599. GUSSONI said the  
18 Ruger was "on consignment" and he had no flexibility on the price. Then GUSSONI said  
19 he would take \$510 for both.

20 36. UC-4 then told GUSSONI that he sold the previous gun he had bought from  
21 GUSSONI to a member of an Outlaw Motorcycle Club and that one of these guns he was  
22 purchasing was going to the same buyer. GUSSONI then gave the UC a brief history of  
23 that Club but did not seem concerned that he was supplying them with firearms. UC-4  
24 said that he needed to acquire more firearms because of the requests he was getting from  
25 the Club and asked GUSSONI if he would fill orders for firearms. GUSSONI replied that  
26 it would depend on what they wanted and what was available. UC-4 then asked  
27 GUSSONI if, similar to SKILES, he bought firearms from an FFL. GUSSONI stated that  
28 he preferred to buy his guns from people "outside the gate" and from people walking by



1 during the show. UC-4 asked why he didn't choose to acquire his firearms the same way  
2 as SKILES and he said that SKILES' method works for SKILES and that his method  
3 works for him and that if the UC got into business of selling firearms he might be still  
4 different then both of them.

5 37. GUSSONI said that he fires most of the firearms on his table to make sure  
6 they are operational before he sells them to someone else. He also said that he tries to  
7 acquire special firearms that he always has wanted and gave an example of the type of  
8 firearm.

9 38. UC-4 asked GUSSONI if he could contact him so that the UC could learn  
10 how to sell firearms at gun shows, and GUSSONI gave the UC his number. UC-4 asked  
11 what kind of work schedule he had so they could work around those hours and GUSSONI  
12 replied, "what work?". GUSSONI said he was retired and on disability and that he was  
13 normally available Monday-Thursday and on Fridays he was usually on the road to a gun  
14 show. He said he was going to be at a flea market in Packwood, Washington next  
15 weekend and at another gun show in Puyallup the weekend after that.

16 39. During the next week, I checked MS records for the Ruger pistol and Rohm  
17 Derringer purchased by the UC on May 22, 2010, and I discovered that one firearm was  
18 purchased by another individual on April 13, 2010, and the Rohm did not appear in MS  
19 records.

20 40. MS records reveal that on July 9, 2010, SKILES purchased two handguns  
21 from the FFL in Tacoma. These firearms included a Bersa, .380 caliber pistol and a High  
22 Standard, .22 caliber pistol. The MS forms list the residence in Belfair, Washington, as  
23 SKILES' current residence.

24 41. On August 7, 2010, UC-2 attended the WAC gun show in Puyallup,  
25 Washington. UC-2 located a table run by GUSSONI and SKILES and watched it for a  
26 little while before approaching. He observed GUSSONI acting as the main seller of the  
27 firearms, until a second customer would arrive and then SKILES would assist. There  
28 were approximately 15-20 handguns and about 10 long guns at the table. UC-2



1 approached the table and started talking to GUSSONI. GUSSONI said that he had new  
2 and used guns for sale and that currently business was "not bad." UC-2 asked both of  
3 them whether they had any Colt Python model pistols and they each said no. GUSSONI  
4 said that he comes across one every once in a while, but that it would cost the buyer some  
5 money to purchase the handgun (meaning they are not cheap). UC-2 then purchased a  
6 Ruger, .38 caliber revolver with serial number 540-27161 from GUSSONI for \$425. The  
7 money was handed to GUSSONI. In a recorded conversation, UC-2 asked about the gun  
8 he just purchased, and GUSSONI said he has had it about three weeks, but that he has  
9 never fired it. When asked why he got rid of the gun so fast, GUSSONI said "I buy them  
10 and then sell them." UC-2 responded, "So it's about the money?" and GUSSONI replied,  
11 "It's all about the money." UC-2 then asked if any paperwork needed to be filled out and  
12 he replied "not with me, I don't do paperwork." UC-2 left the table.

13 42. Also on August 7, 2010, the same UC-4 that contacted GUSSONI in May  
14 2010 attended the WAC gun show in Puyallup, Washington. UC-4 recognized  
15 GUSSONI standing behind the table and SKILES seated behind a different table adjacent  
16 to GUSSONI's table. At first it was unclear whether SKILES and GUSSONI each had a  
17 separate table or if they were working two tables at this show. UC-4 noticed about 15-20  
18 handguns on the table in front of GUSSONI. There were approximately 15 long guns in  
19 racks on two tables near SKILES and a couple of handguns in front of where SKILES  
20 was sitting. When UC-4 first approached the table, SKILES was on the phone. After he  
21 hung up the phone, SKILES told GUSSONI that he was just talking to the Lakewood  
22 Police Department who had recovered one of his firearms.

23 43. SKILES told GUSSONI that it was a firearm that "we" purchased from  
24 Mary's Guns. SKILES went on to say that someone either did something very bad with it  
25 or someone possessed it who was not supposed to have it. SKILES commented that he  
26 was going to have to call the police officer later to discuss the situation further. UC-4  
27 asked SKILES if the firearm had been stolen from them and SKILES said no. Next UC-4  
28 asked SKILES how the officer knew to contact him and SKILES said that he always

1 registered his firearms in his name with the State. However, he did not register any of the  
2 firearms in his "personal collection." SKILES stated that what he possessed in his  
3 personal collection was none of their business (referring to the government). Based on  
4 my training and experience, I believe this is significant because it distinguishes SKILES'  
5 personal collection of firearms from those he sells for profit (without an FFL) at the gun  
6 shows.

7 44. In a recorded conversation with UC-4, GUSSONI told the UC that he did  
8 not have any firearms linked to him through paperwork. GUSSONI's source for firearms  
9 was different from SKILES' source. GUSSONI said that he acquired most of his  
10 firearms from estate sales. GUSSONI added that he had firearms on consignment at  
11 numerous other tables at the gun show. GUSSONI then went on to explain to UC-4 some  
12 of the methods he uses to gain a profit at the gun shows. One way that he makes money  
13 from firearms is to trade up for firearms he wanted, and he gave UC-4 an example of  
14 trading a Springfield XD pistol for an H&K pistol. But GUSSONI says that he never  
15 trades a firearm for another, each sale involves cash. He added that if someone really  
16 wanted the firearm bad enough, they will trade a firearm of higher value for it.  
17 GUSSONI told UC-4 that the highest profit margin was on cheap firearms, and he used  
18 an example of a Bryco .380 caliber pistol. He said that he could acquire those pistols for  
19 less than \$100 and sell them for more. GUSSONI then gave a few examples of what he  
20 meant by pointing to guns at his table. He said he had about \$50 into the Bryco and that  
21 he was trying to sell it for \$230. He pointed out a Raven, .25 caliber pistol that he had  
22 \$65 invested he was selling for \$165. Lastly, GUSSONI pointed to a particular Bauer  
23 pistol he had on this table for \$185. He said someone could sell it for \$225.

24 45. GUSSONI said he would be willing to help UC-4 get started into selling  
25 firearms since the UC asked him for some guidance. UC-4 then decided to buy the three  
26 firearms that GUSSONI had pointed out. The total price was \$500 for all three firearms,  
27 which included ; a Bryco model 48, .380 caliber pistol with serial number D58387, a  
28 Raven, MP22, .22 caliber pistol with serial number 357504 and a Bauer, .25 caliber pistol

1 with serial number 047562. One of these firearms (the Bauer pistol) appeared on MS  
2 records, but the purchaser was neither SKILES or GUSSONI and the date of purchase  
3 was October 28, 2009.

4 46. UC-4 then told GUSSONI a story about how he and a friend in Alaska  
5 worked at a gun show and how someone with a firearms license at another table hassled  
6 the UC's friend about needing a license to sell firearms. UC-4 asked GUSSONI what the  
7 laws were about dealing in firearms. GUSSONI told UC-4 that he would have told the  
8 FFL to "kiss my ass." GUSSONI said that people sell firearms in different ways, just like  
9 he and SKILES acquire their firearms in different ways. GUSSONI said that some  
10 people obtain a license because they choose to have a business versus himself who was a  
11 private party. GUSSONI said that these people had a business because the firearms were  
12 their livelihood. GUSSONI said that he chose to be a private party dealer and not obtain  
13 a license. He went on to say that it was too much of a hassle to deal with the  
14 requirements, including the paperwork and the records he had to maintain. Furthermore,  
15 he said that ATF could come in to look at a licensee's records "24/7 and 365 days a year."  
16 UC-4 asked why anyone would want to get a license then. GUSSONI said that by having  
17 a license, a dealer could purchase firearms for 1/3 the price most people pay for them.  
18 The license then made it easier for a dealer to build in his profit margin, but people like  
19 himself had to work harder to make a profit on a firearm sale.

20 47. On a later date I was able to locate the Lakewood police report that  
21 corroborated the phone call SKILES had at the gun show. The report involved the arrest  
22 of an individual for unlawful possession of a firearm (because the subject arrested was a  
23 convicted felon) and Domestic Violence Assault 4. The firearm was recovered on August  
24 6, 2010, from a vehicle and it was described as a Springfield X9, 9mm with serial number  
25 06100187. A records search showed that this firearm was purchased by SKILES on  
26 March 26, 2009, from an FFL in Tacoma. Based on the conversations overheard by the  
27 UC on August 7, 2010, it appears that either SKILES and/or GUSSONI sold the firearm  
28 after SKILES acquired it.

1       48. On January 19, 2010, there was an officer involved shooting north of  
2 Seattle. ATF was asked to assist in tracing the firearms. One of the firearms was traced  
3 back to a subject who told the investigating ATF agent that he sold the firearm in question  
4 to Ken GUSSONI approximately three years ago. The same subject said that GUSSONI  
5 regularly has firearms for sale at various gun shows.

6       49. GUSSONI was contacted by the ATF agent and asked about the firearm.  
7 GUSSONI admitted to having the firearm at some point, but stated that he had sold  
8 numerous firearms at gun shows throughout the years and was not able to locate any  
9 receipts or documentation as to whom he sold the firearm.

10       50. On July 1, 2010, I received information from the Employment Security  
11 Department about the past wages reported on Mark SKILES between 2003 to the present.  
12 The results showed that the last recorded wages were in 2006 and they totaled less than  
13 \$15,000. There were no records for 2009 or 2010. Though it is difficult to determine  
14 exactly what SKILES paid for each of the firearms he has purchased, since the values for  
15 firearms vary often and because of his arrangement with an FFL, as a rough estimate  
16 based on the used values of firearms he has spent over \$23,000 on acquiring firearms  
17 since January 1, 2009. I am not aware of any businesses that SKILES may be associated  
18 with where he could store firearms, documents, or business records pertaining to the sale  
19 or acquisition of firearms.

20       51. I also received information from the Employment Security Department  
21 about the past wages reported on Kenneth GUSSONI between 2003 to the present. The  
22 results showed that there was no records for GUSSONI between that range. I conducted  
23 a search through the Washington Department of Licensing to see if GUSSONI had a  
24 business license to sell firearms. The only entry I located was a Kenny GUSSONI with  
25 Soner Construction that was opened on 1/1/2007 and closed 12/31/2009. Soner  
26 Construction did not have a business license to sell firearms. The address listed for the  
27 business is the same address that is listed on GUSSONI's Washington drivers license, his  
28 home residence. I also conducted a check of Kenneth GUSSONI through the ATF

1 licensing database on October 19, 2010, and received no records back indicating that  
2 GUSSONI ever had or attempted to receive a federal firearm license. I am not aware of  
3 any businesses that GUSSONI may be associated with where he could store firearms,  
4 documents, or business records pertaining to the sale or acquisition of firearms.

### 5 ROY ALLOWAY INVESTIGATION

6 52. Roy ALLOWAY is a former police officer.<sup>3</sup> During the course of the  
7 investigation, ATF noticed that he and an associate, Troy Wiktorek Sr., were purchasing a  
8 large number of guns and frequenting gun shows. At some point in early to mid 2006,  
9 ATF Special Agent Brad Devlin contacted ALLOWAY and Troy Wiktorek Sr. because of  
10 the volume of guns they were selling at gun shows. SA Devlin explained that they were  
11 violating the law by dealing firearms without a license in violation of 18 USC §  
12 922(a)(1)(A).

13 53. Thereafter, on approximately August 16, 2006, ALLOWAY and his partner,  
14 Wiktorek, who was then also a police officer, applied for a Federal Firearms License, not  
15 as individuals but as a limited liability corporation. They filled out a written application  
16 which they both signed. In the application, they indicated that they intended to engage in  
17 the business of selling new and used firearms for a profit. They also indicated that they  
18 did not intend to use their license to acquire personal firearms. Their business, a limited  
19 liability corporation was to be called Renegade Guns and Loans.

20 54. On October 3, 2006, as part of the application process, an ATF Inspector  
21 met with ALLOWAY and Wiktorek to interview them regarding their application. The  
22 inspector discussed the federal regulations with the applicants and spent time on ATF  
23 form 4473 - firearms transaction form and their obligation to fill out the Report of  
24 Multiple Sales form. The inspector also discussed what it meant to be engaged in the  
25 business of selling firearms under 27 CFR Section 478.11 and the Federal Firearms  
26 License booklet which includes 18 U.S.C. §§ 922(a) through (z) and 921 (the definitions  
27  
28

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<sup>3</sup> Alloway retired from law enforcement in May 2010.

section of the Gun Control Act of 1968).<sup>4</sup> Their license was issued in late 2006.

55. The inspector discussed sale of guns at a gun show by FFLs. They were informed that FFLs can sell firearms at a gun show but must comply with federal firearms regulations which included requiring the buyer to fill out ATF Form 4473 and to perform a background check on the potential purchaser.<sup>5</sup>

56. Additionally, ALLOWAY and Witorek were advised about their requirements regarding the sale of personal firearms they obtained from their business inventory. Under 27 CFR § 478.125a, an FFL, who is a sole proprietor, can transfer firearms from their business inventory to themselves to add to their personal collection. The FFL is not required to fill out a form 4473 when transferring the firearm to their personal collection but must keep a record of this transaction.<sup>6</sup> He/she is also required to keep a book detailing the purchase and sale of personal firearms which came from the business inventory. Additionally, the FFL may only sell a personal firearm transferred to him/ her after a one year period. This option of transferring firearms to one's personal collection does not apply to FFL's doing business as a limited liability corporation. In ALLOWAY's case, once he purchases firearms from the LLC, these firearms are treated as a individual personal purchase from the FFL and he is required to fill out a 4473 for each firearm purchased from his own company.

57. Prior to receiving their FFL, based upon MS records, I learned that from 2004 to 2006 Wiktorek had purchased 53 handguns and ALLOWAY had purchased 26 firearms. After they received their license, there were no further MS records from Wiktorek from November 2006 to the present. However, the MS records for ALLOWAY

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<sup>4</sup> See paragraphs 9 and 10 above for the definitions set forth in ATF Regulations § 478.11.

<sup>5</sup> Under ATF Regulation § 478.100 - Conduct of business away from licensed premises- an FFL is entitled to temporarily conduct business at a gun show as long as the gun show is located in the same State specified on the FFL's license. They are required to post their license, fill out a Form 4473 for each firearms sale, and conduct background checks.

<sup>6</sup> Additionally, a FFL is not required to fill out a form 4473 when obtaining firearms from another FFL if it is for their business inventory. However, if an FFL purchased a personal firearm from another FFL, he would have to fill out the 4473.



1 show that he has purchased 40 firearms since receiving the FFL. Further, the MS forms  
2 list the residence in Port Orchard, Washington, as ALLOWAY's current residence.

3 58. Since 2008, the ATF form 4473 has included a section that informs  
4 purchasers of the rules and regulations regarding repetitive purchases of firearms and  
5 engaging in the business of dealing in firearms. As previously described in paragraph 14  
6 above, anyone who wants to purchase a firearm from a FFL must complete a Form 4473.  
7 In the section on the second page, right above the buyer's signature there is a sentence  
8 that states "I further understand that the repetitive purchase of firearms for the purpose of  
9 resale for livelihood and profit without a Federal firearms license is a violation of the law  
10 (See Instructions for Question 16)." Under Question 16 on page 5 of the form, the  
11 definition of Engaged in the Business under Title 18 U.S.C. Section 922(a)(1) is stated.  
12 Thus, every time ALLOWAY purchased a firearm from an FFL, he filled out and signed  
13 this form he acknowledged the wording on the form and knew that his actions were  
14 "engaging in the business" and therefore needed a license.

15 59. On July 18, 2009, an ATF UC-5 contacted ALLOWAY at the Centralia  
16 Gun show. UC-5 asked ALLOWAY about the firearms at his table and he stated that  
17 some of the firearms were used, but others were in "like new" condition. UC-5 purchased  
18 a Springfield model XD, .45 caliber pistol with serial number US776604 for \$450 and a  
19 Walther, model P22, .22 caliber pistol with serial number L025833 for \$325. After the  
20 purchase was completed, ALLOWAY handed the UC-5 a business card that stated in  
21 large letters at the top of the card "Got Guns?" with his name and a phone number  
22 underneath it. The phone number listed was not to Renegade Guns and Loans, LLC.

23 60. On October 24, 2009, an ATF UC-6 observed ALLOWAY at the  
24 Washington Arms Collectors (WAC) gun show in Puyallup selling firearms at a table that  
25 had approximately 60 handguns and 30 rifles. ALLOWAY's table was connected to  
26 another table that had other firearms on it and a male and female standing behind it. UC-  
27 6 noticed that the price tags associated with the different firearms were in different colors,  
28 so he asked the female behind the table what that meant since the other male subject and



1 ALLOWAY were busy. She responded by saying the green color meant it was a new gun  
2 and the orange meant it was used. UC-6 noticed a sign that said "private sales" sitting on  
3 one of the tables. He asked the female what part of the table was private and she pointed  
4 to an area next to where ALLOWAY was. UC-6 started looking at the numerous firearms  
5 at ALLOWAY's table. He got ALLOWAY's attention and inquired about the history of  
6 a Glock pistol that was on the "private sales" side of the table. ALLOWAY stated that  
7 the Glock handgun was one of his personal firearms and that it had night sights and came  
8 with "high cap" magazines. UC-6 purchased the Glock, model 21, pistol with serial  
9 number DWZ966US and 40 rounds of .30 caliber ammunition for \$550.

10 61. On November 14, 2009, UC-5 attended the WAC gun show in Puyallup. At  
11 the gun show they approached ALLOWAY's table and started asking him about the  
12 firearms at his table. ALLOWAY had 3-4 tables full of private sales firearms and he was  
13 sharing the area with another 3-4 tables belonging to an FFL. UC-5 noticed two other  
14 people working the other table adjacent to his table. UC-5 purchased a Keltec, .223  
15 caliber pistol with serial number POP72.

16 62. On July 27, 2010, I received a referral from the Seattle ATF Intelligence  
17 group regarding Roy ALLOWAY. An inspection of Renegade Guns & Loans LLC,  
18 located in Shelton, Washington, was recently completed by ATF Industry Operation  
19 Investigators (IOI). From this inspection, ATF IOI's discovered a large amount of  
20 purchases made by ALLOWAY. From reviewing the ATF form 4473 and Acquisition  
21 and Disposition records held by the FFL, the IOI's were able to determine that from  
22 November 2006 through May 2010, ALLOWAY acquired approximately 163 firearms  
23 through Renegade Guns & Loans in his individual capacity, not as a FFL. The majority  
24 of the firearm transfers occurred the same day or within one day of the acquisition date by  
25 the FFL. In other words, the firearm was taken in by Renegade Guns and Loans, and  
26 transferred to ALLOWAY the same day or within one day.

27 63. The IOI also noticed that there was no apparent pattern in the type of  
28 firearms ALLOWAY was acquiring. Some of his acquisitions were handguns including

1 | Glock, Hi-points and Berettas, and other times he purchased long guns which included  
2 | SKS models, AR-15 models and AK-47 modeled rifles. From May 2009 through April  
3 | 2010, ALLOWAY purchased 30 long guns from the shop. The Inspector also did a  
4 | search of handgun purchases recorded in Washington State and determined that since  
5 | January 2005, ALLOWAY had purchased 224 handguns from Renegade Guns and Loans  
6 | and other various FFLs.

7 |         64. ALLOWAY has been seen at the gun show on multiple occasions and each  
8 | time he was selling firearms as a private seller. Typically, his table was set up next to the  
9 | tables set up by Renegade Guns & Loans LLC. There was never any paperwork ever  
10 | filled out during any of ATF's undercover purchases for firearms from ALLOWAY. On  
11 | one occasion an ATF UC did see ALLOWAY obtain change, for a purchase he made  
12 | from his "private sales" table, with the money box that looked to belong to Renegade  
13 | Guns and Loans at the adjoining tables.

14 |         65. From reviewing the paperwork included in the referral, I noticed that the  
15 | Glock pistol with serial number DWZ966US, purchased at the gun show by UC-6 on  
16 | October 24, 2009, was actually acquired by Renegade Guns & Loans LLC on October 8,  
17 | 2009, and transferred/sold to Roy ALLOWAY on October 8, 2009. This quick  
18 | turnaround of the firearm by ALLOWAY is an indication that other firearms (of the 163  
19 | total) he acquired from Renegade Guns and Loans are being sold in the same fashion.

20 |         66. As noted above, an FFL, operating as a sole proprietor, can transfer  
21 | firearms to themselves to add to their personal collection, but those firearms must be kept  
22 | in their personal collection for at least one year before being sold. Thus, even if an FFL  
23 | wanted to sell guns from his/her personal collection they are entitled to do so. However,  
24 | attending every gun show and selling a high volume of firearms meets is not consistent  
25 | with the sale of personal firearms from one's personal collection. It appears that  
26 | ALLOWAY is purchasing firearms through Renegade Guns and Loans then transferring  
27 | them to himself and selling them at the gun shows under the guise they are "private  
28 | sales."

67. The undercover agents observed ALLOWAY's tables on multiple occasions. His table typically had from 40-60 firearms.<sup>7</sup> This is a high number of firearms to be selling from gun show to gun show without using a license.

68. Other individuals investigated for dealing without a license rarely had the firearms totals that ALLOWAY had on his table at the gun show. I believe this is true for two reasons. First, ALLOWAY has easier access to guns through the FFL which has helped him funnel firearms from the shop to his "private sale" booth at a greater pace. The second reason that ALLOWAY is using the FFL to his advantage is because of the price margin. When the FFL takes in a firearm, they will do so for an amount that will allow them to make a profit when they resell it. With ALLOWAY purchasing so many guns through his FFL, he most likely is not paying more than the shop paid someone to acquire the firearms since he is technically part of the shop. This allows ALLOWAY to make a profit easier than he would if he bought a firearm from a different FFL. I am not aware of any other businesses that ALLOWAY may be associated with where he could store firearms, documents, or business records pertaining to the sale or acquisition of firearms.

#### DAVID DEVENNY

69. Beginning in May 2009 through the current date, the ATF has been investigating David DEVENNY for unlawful dealing in firearms, in violation of 18 U.S.C. § 922(a)(1). This investigation was initiated in May 2009, when I received an ATF Multiple Sales (MS) report that showed David DEVENNY had recently purchased nine handguns from one Federal Firearm Licensee (FFL) in Tacoma, Washington.<sup>8</sup> The MS forms list the residence in Olympia, Washington, as DEVENNY's current residence. According to the ATF database, DEVENNY had purchased the following firearms in the

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<sup>7</sup> Following the sale of firearm, an ATF UC witnessed ALLOWAY fill space on his table with another firearm he had under the table.

<sup>8</sup> As mentioned above, Multiple Sale forms are forms that a FFL has to fill out when someone purchases more than one handgun within 5 business days. A copy of this form is sent to ATF after it is completed by the FFL. The information from these forms is entered into a program that ATF uses to trace firearms recovered in crimes.

1 past two years:

- 2 • January 29, 2009, four (4) handguns;
- 3 • March 4, 2009, three (3) handguns; and
- 4 • May 20, 2009, nine (9) handguns.

5 70. Based upon additional research into the State of Washington's database  
6 regarding handgun sales by FFL's, I discovered that DEVENNY purchased a total of 23  
7 handguns in the past two years from FFLs. The type of handguns purchased included  
8 three (3) Glocks, six (6) Taurus', three (3) Smith & Wesson's, two (2) FEG's, and a few  
9 other inexpensive handguns. All of the guns were purchased in a used condition.<sup>9</sup>

10 71. When DEVENNEY purchased the firearms from a FFL, he had to complete  
11 and sign an ATF form 4473. As noted above, the purchaser fills out and signs the first  
12 page of this form. The dealer fills out the second and third page of the form. In the  
13 section on the second page, right above the buyer's signature there is a sentence that  
14 states "I further understand that the repetitive purchase of firearms for the purpose of  
15 resale for livelihood and profit without a Federal firearms license is a violation of the law  
16 (See Instructions for Question 16)." Therefore, every time DEVENNY filled out and  
17 signed this form he acknowledged the wording on the form and was informed of the  
18 definition of a engaging in the business of dealing firearms.

19 72. In 2007, I investigated a Canadian resident who was buying multiple guns  
20 from DEVENNY at gun shows. As part of that investigation, I made contact with  
21 DEVENNY and inquired about the guns that were recovered.

22 73. On October 17, 2009, Special Agents with ATF conducted an undercover  
23 operation at the gun show located at the SW Washington Fairgrounds near Centralia,  
24 Washington. Prior to entering the gun show, I briefed ATF UC-2, who was working  
25 undercover, that DEVENNY may be present at the show.

26 74. UC-2 entered the show and saw DEVENNY at a table which had

---

27 <sup>9</sup> Based upon my review of MS records, I learned that since May of 2009, DEVENNY has  
28 purchased an additional 12 handguns through MS records. I believe that he has purchased other firearms  
from private parties. Since no records are required for private sales, the exact number of firearms cannot  
be ascertained.

1 approximately fifteen handguns and eight long guns displayed for sale. DEVENNY was  
 2 wearing a name tag with the name "Dave" and the words "buy estate" on his tag. Special  
 3 Agent UC-2 initiated a conversation with DEVENNY. During the conversation,  
 4 DEVENNY stated that he had sold 14 firearms at the last gun show. DEVENNY also  
 5 stated that he would be at the next gun show in Puyallup, which is considered a major gun  
 6 show in the State of Washington.<sup>10</sup> DEVENNY explained that he had been buying and  
 7 selling firearms for approximately seven years and that he makes "decent" money selling  
 8 guns.

9 75. UC-2 asked DEVENNY about the "buy estate" wording on his tag.  
 10 DEVENNY explained it means that he purchases firearms from estate sales and re-sells  
 11 them. DEVENNY also pointed out that not all the firearms on his table belonged to him.  
 12 He stated that a few long guns belonged to a younger male that was present at the table,  
 13 but to whom UC-2 did not speak. (This person was later identified as David McQuain).

14 76. After browsing DEVENNY's table, UC-2 bought one Taurus, model 445,  
 15 .44 caliber revolver with serial number QG548076 for \$395. Prior to completion of the  
 16 sale, DEVENNY asked UC-2 if he was a Washington resident, but did not ask to see any  
 17 identification. DEVENNY gave UC-2 a receipt for the purchase of the handgun.<sup>11</sup>

18 77. On October 24, 2009, UC-2 went to the Washington Arms Collector  
 19 (WAC) gun show held in Puyallup, Washington. He approached DEVENNY's table  
 20 which had approximately 20 handguns and 10 long guns. DEVENNY remembered UC-2  
 21 from the previous show. David McQuain, who was at the last gun show, was also present  
 22 behind the table.

23 78. UC-2 learned from DEVENNY and McQuain and that the majority of the  
 24 handguns belonged to DEVENNY and the majority of the long guns belonged to

25  
 26 <sup>10</sup> The organization who is responsible for the gun show, the Washington Arms Collectors  
 (WAC) advertise the show as "The Big One."

27 <sup>11</sup> At the Centralia gun shows, a receipt is required with every firearm sale so the person  
 28 working at the exit can verify that the person walking out the door purchased the firearm they are leaving  
 with. A receipt of this nature was completed by DEVENNY, but no other paperwork was provided to the  
 UC.

1 McQuain. There was also a sign at their table that read "Private Sale." UC-2 purchased  
2 a FEG, model GGK45, .45 caliber pistol with serial number AA006230 for \$450. No  
3 paperwork was completed for the sale, but DEVENNY did ask to see UC-2's Washington  
4 drivers license. While completing the purchase, DEVENNY stated that he quickly sells  
5 the guns he buys. He also stated that he would be interested in purchasing any firearms  
6 that UC-2 was willing to sell. DEVENNY pointed out that the firearm that UC-2 was  
7 purchasing had never fired and he (DEVENNY) purchased it from an unnamed source  
8 only to resell it.

9 79. Also, October 24, 2009, during the same gun show in Puyallup, UC-6, also  
10 visited DEVENNY's table to purchase a firearm. UC-6 noticed that DEVENNY was  
11 wearing a Washington Arms Collector Membership badge with the name Dave  
12 DEVENNY and that a note was attached that mentioned buying estates. UC-6 saw  
13 approximately 40 handguns and 10 long guns at the table.

14 80. UC-6 struck up a conversation with DEVENNY. During that conversation,  
15 DEVENNY stated that he was not a collector, but a "recycler," and that he "probably  
16 shouldn't say that too loud." DEVENNY went on to say that he had been buying and  
17 selling firearms for some time and that "they" can't do anything about it. I believe that  
18 the reference to "they" means the ATF, because he knows that ATF regulates licensed  
19 dealers and the federal firearms laws.

20 81. UC-6 bought a Ruger, model SP101, .357 caliber revolver with serial  
21 number 573-53480 and a holster for \$475. During the purchase, DEVENNY stated that  
22 it was the second firearm he had not expected to sell that morning. UC-6 asked  
23 DEVENNY if that meant he was holding guns for other people and to which DEVENNY  
24 replied "something like that." I believe this meant that DEVENNY had pre-arranged a  
25 few sales of firearms to other individuals for whom he was just waiting to stop by to  
26 purchase the firearms.

27 82. On November 14, 2009, UC-5, working undercover, contacted David  
28 DEVENNY at the WAC Gun Show in Puyallup, Washington. DEVENNY told UC-5 that



1 all of the firearms on his tables were used and he did not know the specific history behind  
2 the firearms ownership. DEVENNY said he frequently had tables at the Puyallup and  
3 Centralia gun shows as well as other gun shows in the Seattle/Tacoma area. DEVENNY  
4 went on to say that he will go to Port Angeles to sell at the gun show but that he would  
5 not go to the Monroe Gun Show.

6 83. While speaking with Special Agent UC-5, another customer, "Terry,"  
7 approached DEVENNY and stated, "your table grows every time." DEVENNY  
8 immediately recognized "Terry" and the two discussed the idea of "Terry" buying/selling  
9 one or more firearms from each other in the future at DEVENNY's home. DEVENNY  
10 told "Terry" he could not purchase a firearm at the show without being a member.

11 84. UC-5 purchased a Star, model 30PK, 9mm pistol with serial number  
12 163448 for \$350. DEVENNY confirmed that UC-5 was a WAC member by looking at  
13 his name tag and then checked his Washington State license for residency verification.

14 85. On December 5, 2009, UC-4, working undercover, contacted David  
15 DEVENNY at the Centralia/Chehalis gun show at the Southwest Washington  
16 Fairgrounds. UC-4 approached DEVENNY's table and started a conversation with him  
17 regarding the guns at his table. DEVENNY told UC-4 that he was not required to  
18 complete any paperwork except the receipt that was required by the gun show. He also  
19 stated that he was a private collector, but not a collector of any particular kind of firearm.  
20 DEVENNY explained that he has bought various firearms and sells them at the gun  
21 shows and referred to himself as a "recycler," in that he bought guns from one person and  
22 recycled them to another person.

23 86. DEVENNY further explained that he kept very few records. He then patted  
24 a wad of folded papers in his pocket and said that he kept track of how much he paid for a  
25 particular firearm on those papers. He stated that when he sold a firearm on his list he  
26 would dispose of the information. He told UC-4 he did not want the government  
27 pursuing him for taxes on his firearms sales. He stated that he did not want ATF to know  
28 how many firearms he bought and sold because he believed that ATF might conclude that



1 he was buying and selling too many firearms. DEVENNY also mentioned that he has  
2 some computer records of his activities at home, but they were limited for fear of  
3 government action against him.

4 87. UC-4 asked DEVENNY how many firearms someone could sell without  
5 needing to get a license. DEVENNY stated that there was no particular number of  
6 firearms required for someone to obtain a firearms license. DEVENNY told UC-4 that  
7 the paperwork an FFL (Federal Firearm Licensee) had to deal with was a hassle and that  
8 the only upside is that an FFL was able to purchase a firearm at wholesale and run a  
9 storefront.

10 88. DEVENNY told UC-4 that there were only a few things that he had to  
11 confirm in order to sell to someone at a gun show. First, he had to check the person's age  
12 to make sure they were 18 years of age to purchase a long gun or 21 years of age for a  
13 handgun. Second, that the buyer was a Washington State resident. Lastly, whether or not  
14 the subject was a convicted felon. However, DEVENNY said that he did not actually  
15 care if someone was a felon, that he just did not want to know about it. DEVENNY also  
16 mentioned that he watches out for straw purchasers.<sup>12</sup> Again, DEVENNY said that he  
17 was not opposed to selling to someone who was not the actual purchaser, but that he just  
18 did not want to know about it. DEVENNY added that he never knew if someone from  
19 ATF would be standing by listening to a straw purchase transaction or to a sale to a felon  
20 and he had to watch his own back.

21 89. Special Agent UC-4 purchased a Taurus, .38 caliber revolver with serial  
22 number ZL12729 from DEVENNY. DEVENNY asked to see UC-4's identification.  
23 DEVENNY told UC-4 that he had purchased that firearm the day before from an FFL.  
24 He went on to explain that it was a special order for someone who was did not pass the  
25 FBI background check. Since the guy who special ordered it could not receive it the FFL  
26 sold the gun to DEVENNY.

27  
28 <sup>12</sup> A straw purchaser is when someone buys a gun with the intention of giving it to someone else  
(the real purchaser) that could not buy the firearm. By definition the term straw purchaser refers to sales  
through FFL's, thus showing that DEVENNY knows what FFL's look for when conducting sales.

1           90. I ran a check on the Taurus, .38 caliber revolver with serial number  
2 ZL12729 which Special Agent UC-4 had purchased from DEVENNY. The records  
3 confirmed that DEVENNY purchased the firearm on December 4, 2009, from a FFL in  
4 Covington, Washington.

5           91. On January 14, 2010, David DEVENNY called UC-2 to let him know that  
6 he had a Taurus, model "The Judge" handgun for sale. Back on October 17, 2009, UC-2  
7 had spoken to DEVENNY about this particular handgun and asked DEVENNY if he  
8 could find one for him. DEVENNY told UC-2 that he would sell the handgun for \$500  
9 and that he could possibly get a second "Judge" from a friend who is an FFL. The UC  
10 told DEVENNY that he would think about it and get back to him.

11           92. On January 15, 2010, DEVENNY called UC-2 again and left a message  
12 identifying himself as "Handlebar Dave," which is an alias he has used in the past. The  
13 message stated that he could get a second "Judge" and that the first Judge he could sell  
14 for \$500 and the second he could sell for \$525 for a total of \$1,025.

15           93. On January 21, 2010, UC-2 returned DEVENNY's call and asked if he still  
16 had the Taurus, model "The Judge" handgun for sale. DEVENNY stated that he still had  
17 it and that he would sell it to UC-4 at his residence. Both parties agreed to meet on  
18 January 22 at DEVENNY's residence in Olympia, Washington.

19           94. On January 22, 2010, UC-2 went to DEVENNY's residence located at 9610  
20 SE Highway 99, Olympia, Washington to purchase "The Judge" firearm. The meeting  
21 between UC-2 and DEVENNY lasted approximately one hour. During this meeting  
22 DEVENNY claimed that he has been selling firearms for approximately eight (8) years  
23 and averages about two shows a month.

24           95. When UC-2 asked DEVENNY what types of firearms he had for sale,  
25 DEVENNY read off approximately 43 firearms by name from a list he had in his shirt  
26 pocket. DEVENNY would not allow UC-2 to see the list because he did not want UC-4  
27 to see how much he paid for each weapon. DEVENNY told UC-2 that he is not a  
28 "dealer" (making hand gestures showing quotation marks), but that he has to make money

1 from selling firearms. UC-2 asked DEVENNY if he would make more money if he was a  
 2 licensed dealer. DEVENNY replied no and elaborated further by discussing the  
 3 paperwork involved and about conducting NICS (National Instant Check System)  
 4 transactions for each sale.

5 96. UC-2 told DEVENNY that he had a co-worker who wanted a firearm but  
 6 was unable to legally purchase a firearm due to a domestic violence conviction.  
 7 DEVENNY stated that he didn't "give a shit" and that he would sell a gun to UC-2's  
 8 friend. DEVENNY reiterated that he doesn't ask the question whether the buyer can  
 9 legally have the firearm.

10 97. During this conversation, DEVENNY admitted that he had sold the gun that  
 11 was used to murder Seattle Police Officer Brenton.<sup>13</sup> DEVENNY explained that he could  
 12 not say to whom he sold the gun but that he knew he sold that gun at the Puyallup gun  
 13 show. DEVENNY stated that he was contacted by the Seattle Police detectives following  
 14 the shooting. The detectives were able to trace the gun to him because DEVENNY had  
 15 purchased the gun from the original owner. DEVENNY was unable to tell the police to  
 16 whom he sold the gun because he claimed not have kept any record of the sale.

17 98. UC-2 purchased two firearms from DEVENNY: a Taurus, model The  
 18 Judge, .45/.410 caliber revolver with serial number CS816896, and a Sig Sauer, .45  
 19 caliber pistol with serial number G287194. Before leaving, UC-4 again asked  
 20 DEVENNY about bringing his friend who had the domestic violence conviction to his  
 21 house to purchase a firearm. DEVENNY replied, "I really don't care, don't ask, don't  
 22 tell. If I don't know, then there is nothing wrong with it."

23 99. On February 5, 2010, UC-2 and ATF CI #291 met David DEVENNY at his  
 24 residence to purchase firearms. CI#291 was posing as UC-2's coworker with the  
 25 domestic violence conviction. During this conversation DEVENNY told UC-2 and CI#  
 26

27 <sup>13</sup> On October 31, 2009, Seattle Police Officer Timothy Brenton was shot to death while  
 28 patrolling in the Central District of Seattle, Washington. Christopher Monfort is currently facing a  
 capital murder charge in King County. It is my belief that this gun was sold at the October 24, 2009  
 Puyallup Gun Show, one week before Officer Brenton's murder.

1 291 that he had recently purchased an additional fifteen (15) firearms and had two deals  
2 scheduled to take place the following day. DEVENNY said that he buys almost anything  
3 as long as he can make a dollar selling it. DEVENNY also stated that the only gun he  
4 "collects" is made by the Wilkerson Firearms company.

5 100. CI#291 attempted to tell DEVENNY that he got into some trouble, but  
6 DEVENNY cut him/her off and stated, "I don't want to hear about it, I am not supposed  
7 to know about it, and I don't ask that question. Just as long as you forget where it (the  
8 firearm) comes from."

9 101. Another topic that DEVENNY and UC-2 talked about involved the prices  
10 of firearms. During this conversation, DEVENNY explained how he used a couple of  
11 books he possessed to determine the value of guns he intended to buy or sell. He pointed  
12 out that a "picture book" he had was usually a little lower on values than the Blue Book  
13 of Gun Values. The Blue Book of Gun Values he says usually has higher prices and no  
14 pictures to compare. "I hardly use the books anymore to come up with a value for guns  
15 because I have started to focus more on handguns."

16 102. DEVENNY told UC-2 that he had two "deals" set up for the next day.  
17 DEVENNY stated that on one deal he was going to receive a Smith & Wesson for a  
18 Glock. UC-2 commented "You don't like Glocks?" DEVENNY agreed but stated that is  
19 what sells so he will buy them.

20 103. DEVENNY stated that besides Wilkerson guns, he has "never collected  
21 guns." He went on to say that anything he purchases, goes in the "recycling bin." Based  
22 upon his prior statements, I believe this to mean that DEVENNY only buys firearms to  
23 resell them to someone else (i.e. to recycle them).

24 104. UC-2 asked DEVENNY to see a the firearms they spoke about on the phone  
25 before the meeting. The guns mentioned to UC-2 were Glocks that were previously used  
26 by the Detroit Police Department. DEVENNY stated that he has four of them (referring  
27 to the Glocks), but that one was already sold.

28 105. DEVENNY sold CI#291, two firearms, one Glock, .40 caliber pistol with

1 serial number 04994DPD for \$475 and one Norinco, model SKS, 7.62x39mm caliber rifle  
2 with serial number 10449811 for \$400. UC-2 purchased one Glock, model 22, .40 caliber  
3 pistol with serial number 04597DPD for \$475. DEVENNY was paid \$1,350 dollars for  
4 the three firearms.

5 106. As UC-2 and CI# 291 were leaving, DEVENNY stated that he never really  
6 knows what he is "going to have from day to day." He explained that he bought "seven  
7 guns Monday or Tuesday and those four Glock's" and "four or five other guns since you  
8 were here last time." He also stated that he was going to attend "a Gun show in Centralia  
9 in about a week or so, which means my inventory will change again."

10 107. DEVENNY also claimed that he bought about "\$30,000 worth of guns"  
11 from a guy down in Longview, Washington over a few month period. DEVENNY  
12 reminded CI#291, "If it comes along that someone catches you and raises hell with you,  
13 you don't know where those came from, just keep that in mind. I don't need the SWAT  
14 team here at the yard again."

15 108. I queried the serial number of firearms purchased from DEVENNY through  
16 the ATF tracing database. I discovered that the two handguns had been purchased from a  
17 FFL in January 2010. The Glock pistol with serial number 04597DPD was purchased on  
18 January 29, 2010, and the pistol with serial number 04994DPD was purchased on January  
19 25, 2010.

20 109. On May 22, 2010, UC-4 working undercover, attended the gun show in  
21 Centralia, Washington. While walking through the show, he observed DEVENNY  
22 behind a table that had a private seller sign. While UC-4 was looking for guns at the  
23 table, DEVENNY pointed out one of the guns and offered to lower the price.  
24 DEVENNY explained that he had been carrying the firearm around to gun shows for too  
25 long and was willing to give UC-4 a good price on it. DEVENNY told UC-4 that the  
26 manufacturers paperwork was in the gun box for that particular weapon.

27 110. DEVENNY stated that he did not have to do any paperwork for the sale of  
28 the firearm other than the receipt required by the gun show. DEVENNY said that he fills

1 out the receipt for the buyer, but that he doesn't keep a copy for himself. He said that by  
2 not keeping a copy of it, there was less for "Uncle" to come looking for. I believe the  
3 reference to "Uncle" meant "Uncle Sam" or the federal government from whom he was  
4 trying to hide his gun sales. DEVENNY told UC-4 that all the firearms he had on the  
5 table were paid for from his earnings he made over an eight year period of working at gun  
6 shows. He said that he did not have any household money invested in his inventory.  
7 Special Agent UC-4 did not buy a gun on this occasion.

8 111. On July 1, 2010, I received information back from the Employment Security  
9 Department Records Disclosure Unit that showed DEVENNY had no employment history  
10 for the years 2008-July 2010. In 2007 the records indicated that he worked 306 hours and  
11 made about \$6,800. I am not aware of any businesses that DEVENNEY may be  
12 associated with where he could store firearms, documents, or business records pertaining  
13 to the sale or acquisition of firearms.

14 112. On October 18, 2010, I checked with an ATF Industry Operation  
15 Investigator to see whether David DEVENNY had ever applied or received a Federal  
16 Firearms License. ATF Industry records revealed that they had no records of David  
17 DEVENNY ever receiving a license, or attempting to receive a license. For someone in  
18 the State of Washington to obtain a federal firearms license they must also apply for and  
19 be accepted to receive a state license to sell firearms. A search of Washington State's  
20 Department of Licensing database showed no firearms licenses issued to David  
21 DEVENNY.

### 22 CONCLUSION

23 113. Based upon my training and experience, I know that it is common for  
24 individuals who engage in the unlawful dealing of firearms to store their records, such as  
25 purchase orders, sales receipts, ATF form 4473 for the purchase of firearms from a FFL,  
26 photographs of firearms, and inventory sheets. Unlike federal firearms licensees, who  
27 have a storefront, I am not aware that any of the subjects of this warrant have a store front  
28 or other location from which they deal firearms. I am further unaware of any other



1 businesses associated with any of the subjects of this investigation and the subjects are  
2 not known to be employed outside of their residences. Thus, I believe that any records or  
3 documents relating to the purchase, sale, or acquisition of firearms would therefore be  
4 stored in their residences. The subjects herein sell their firearms at multiple local gun  
5 shows and do not have any other location from which they conduct business.

6 114. In my experience, individuals who possess firearms will keep the firearms  
7 stored in gun safes at their residences. As noted above in paragraph 8, when SKILES  
8 applied to become an FFL in 2003, he indicated that he intended to store his firearms in a  
9 commercial gun safe in the bedroom of his residence. Further, given the value of the  
10 firearms, the size of the collection of firearms, the unlawful firearms dealer will want to  
11 keep the firearms in a secured location. For example, as noted above, DEVENNY stored  
12 his firearm inventory, in two gun safes, at his residence. Also, UC-4 contacted another  
13 individual suspected of unlawful firearms dealing, at one of the gun shows. This  
14 individual stated that he had built a walk-in gun safe in his residence in which he stored  
15 approximately three hundred (300) firearms.

16 115. When SKILES operated as an FFL, he listed his home address as his place  
17 of business. According to ATF regulations, an FFL can only operate their business at the  
18 location listed as their place of business or at a gun show. An FFL is authorized to store  
19 their inventory of firearms at an outside location, but that location must be noted in their  
20 licensing paperwork and approved by the ATF. There is no record of SKILES seeking  
21 approval to store the weapons in a location other than his residence. It would have been  
22 in violation of ATF regulations for SKILES to have stored the firearms at another  
23 location, such as a storage locker, without ATF approval.

24 117. As referenced above, in 2007, when GUSSONI had a state business license  
25 for Soner Construction, he listed his personal residence as the place of business.

26 118. Given the frequency that SKILES, GUSSONI, ALLOWAY, and  
27 DEVENNY attend gun shows, the firearms must be easily and quickly accessible since  
28 they have to transport the firearms to and from the gun shows which are located through

1 out the Western District of Washington. Thus, for convenience reasons, I believe the  
2 subjects store the firearms at their residence, as well as the documents pertaining to their  
3 acquisition.

4 119. ALLOWAY he has purchased numerous firearms from and through,  
5 Renegade Guns and Loans. Once he purchased the firearm from Renegade Guns and  
6 Loans, by ATF regulation, he had to physically remove the firearms from that location. I  
7 believe that ALLOWAY stores the firearms at his residence.

8 120. SKILES, GUSSONI, ALLOWAY, and DEVENNY, each reside in houses  
9 large enough to store their inventory of firearms.

10 121. I am aware that the Ninth Circuit in *United States v. Angulo-Lopez*, 791  
11 F.2d 1394 (9th Cir. 1986), held that direct evidence that contraband or evidence is at a  
12 particular location is not essential to establish probable cause to search the location.  
13 Further, I am aware that “[i]n the case of drug dealers, evidence is likely to found where  
14 the dealer lives.” *Id.* at 1399. Further, that a magistrate judge “is entitled to draw  
15 reasonable inferences about where the evidence is likely to be kept, based on the nature of  
16 the evidence and the type of offense.” *Id.* It is not necessary for the magistrate judge to  
17 determine that the evidence sought is in fact on the premises to be searched. *United*  
18 *States v. Peacock*, 761 F.2d 1313, 1315 (9th Cir. 1985).

19 122. I am also aware that the Eleventh Circuit in *United States v. Anton*, 546  
20 F.3d 1355, 1358 (11th Cir. 2008), held that a warrant to search a residence for evidence  
21 of firearms possession and firearms dealing was supported by probable cause when the  
22 affidavit established that (1) federal agents had observed the defendant with firearms at  
23 several gun shows; (2) a confidential informant indicated that the defendant would attend  
24 a specific gun show and had claimed to be in possession of over 300 firearms; and (3) that  
25 based upon the federal agent's experience, convicted felons and firearms dealers  
26 possessing contraband typically store these items on their property.

27 //

28 //

//

123. Based on the foregoing, I respectfully submit that probable cause exists to search the subject residences described more particularly in Attachment A, for evidence, fruits, and instrumentalities of violations of Title 18 U.S.C. § 922(a)(1)(A) and 924(d).



HEIDI WALLACE, Affiant  
Special Agent, Bureau of Alcohol, Tobacco,  
Firearms and Explosives

SUBSCRIBED AND SWORN to before me this 17<sup>th</sup> day of November, 2010. 3:45pm



J. RICHARD CREATURA  
United States Magistrate Judge

## UNITED STATES DISTRICT COURT

for the  
Western District of Washington

DEC - 3 2010

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)Residence located at 9468 Phillips Road SE,  
Port Orchard, Washington 98367, including trailers and  
outbuildings located within the curtilage

Case No. MJ10-5191-03

## SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search  
of the following person or property located in the Western District of Washington  
(identify the person or describe the property to be searched and give its location):

See Attachment A, attached hereto and incorporated herein

The person or property to be searched, described above, is believed to conceal (identify the person or describe the  
property to be seized):

See Attachment B-2, attached hereto and incorporated herein

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or  
property.

YOU ARE COMMANDED to execute this warrant on or before

11/27/10

(not to exceed 10 days)

☒ in the daytime 6:00 a.m. to 10 p.m.☐ at any time in the day or night as I find reasonable cause has been  
established.Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property  
taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the  
place where the property was taken.The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an  
inventory as required by law and promptly return this warrant and inventory to United States Magistrate JudgeJ. RICHARD CREATURA

(name)

☒ I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay  
of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be  
searched or seized (check the appropriate box) ☒ for 10 days (not to exceed 30).☐ until, the facts justifying, the later specific date of \_\_\_\_\_

Date and time issued:

11/17/10 3:45p.

Judge's signature

City and state: Tacoma, WashingtonJ. RICHARD CREATURA, United States Magistrate Judge

Printed name and title

AO 93 (Rev. 01/09) Search and Seizure Warrant (Page 2)

Return		
Case No.:	Date and time warrant executed: 11/18/10 4:10pm	Copy of warrant and inventory left with: Roy Alloway
Inventory made in the presence of: S/A WALLACE		
Inventory of the property taken and name of any person(s) seized: See attached Evidence Log		
12/3/10 3:50 P. J. [Signature]		
Certification		
I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.		
Date: 12/3/10	[Signature] Executing officer's signature HEIDI WALLACE S/A Printed name and title	

**ATTACHMENT B-2**  
(Items to be Seized)

The following records, documents and other items that constitute evidence, contraband, fruits, and/or instrumentalities of Unlawful Dealing in Firearms, in violation of Title 18, United States Code, Sections 922(a)(1)(A), are to be seized:

1. Any other items pertaining to the sale or acquisition of firearms including but not limited to gun cases, packaging, magazines, photographs of firearms or of persons in possession of firearms, and receipts for the purchase or disposition and/or repair of any firearms.
2. Any firearm laws/rules or guidelines documentation explaining the dealing of firearms.
3. Business cards or signage used to sell or acquire firearms.
4. W.A.C. membership information and or card.
5. Information or registration documentation for gun shows.
6. Any and all receipts, documents, invoices, records, bank statements, tax records, income statements, licensing paperwork and notes whether handwritten, typed, photocopied or in printed form pertaining to the acquisition, receipt, purchase and/or sale of firearms.
7. Any storage facility documentation and/or related keys.
8. Any and all indicia, to include records and items that establish control, possession, custody or dominion over the property and vehicles searched and from which evidence is seized.



AO 93 (Rev. 01/09) Search and Seizure Warrant

# UNITED STATES DISTRICT COURT

for the  
Western District of Washington

In the Matter of the Search of  
(Briefly describe the property to be searched  
or identify the person by name and address)

Residence located at 9488 Phillips Rd SE, Port Orchard,  
WA, including trailers and outbuildings located within the  
curtilage

Case No. MJ10-5194

## SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search  
of the following person or property located in the Western District of Washington  
(Identify the person or describe the property to be searched and give its location):

See Attachment A, attached hereto and incorporated herein

The person or property to be searched, described above, is believed to conceal (identify the person or describe the  
property to be seized):

See Attachment B, attached hereto and incorporated herein

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or  
property.

**YOU ARE COMMANDED** to execute this warrant on or before \_\_\_\_\_

(not to exceed 10 days)

☒ in the daytime 6:00 a.m. to 10 p.m.

☒ at any time in the day or night as I find reasonable cause has been  
established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property  
taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the  
place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an  
inventory as required by law and promptly return this warrant and inventory to United States Magistrate Judge

J. RICHARD CREATURA

(name)

☒ I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay  
of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be  
searched or seized (check the appropriate box) ☒ for \_\_\_\_\_ days (not to exceed 30).

☐ until, the facts justifying, the later specific date of \_\_\_\_\_

Date and time issued: 11/18/10 6:15P

  
Judge's signature

City and state: Tacoma, Washington

J. RICHARD CREATURA, United States Magistrate Judge  
Printed name and title

**ATTACHMENT B**  
(Items to be Seized)

The following records, documents and other items that constitute evidence, contraband, fruits, and/or instrumentalities of Unlawful Dealing in Firearms, in violation of Title 18, United States Code, Sections 922(a)(1)(A), are to be seized:

1. Any and all firearms.
2. Any other items pertaining to the sale or acquisition of firearms including but not limited to gun cases, packaging, magazines, photographs of firearms or of persons in possession of firearms, and receipts for the purchase or disposition and/or repair of any firearms.
3. Any firearm laws/rules or guidelines documentation explaining the dealing of firearms.
4. Business cards or signage used to sell or acquire firearms.
5. W.A.C. membership information and or card.
6. Information or registration documentation for gun shows.
7. Any and all receipts, documents, invoices, records, bank statements, tax records, income statements, licensing paperwork and notes whether handwritten, typed, photocopied or in printed form pertaining to the acquisition, receipt, purchase and/or sale of firearms.
8. Any storage facility documentation and/or related keys.
9. Any and all indicia, to include records and items that establish control, possession, custody or dominion over the property and vehicles searched and from which evidence is seized.

AO 93 (Rev. 01/09) Search and Seizure Warrant (Page 2)

**Return**

Case No.: MJ10-5194	Date and time warrant executed: 11/18/10	Copy of warrant and inventory left with: Ray Alloway
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Inventory made in the presence of:

S/A WALLACE

Inventory of the property taken and name of any person(s) seized:

See attached list noted  
w/ original warrant**Certification**

I declare under penalty of perjury that this inventory is correct and was returned along with the original warrant to the designated judge.

Date: \_\_\_\_\_

\_\_\_\_\_  
Executing officer's signature\_\_\_\_\_  
Printed name and title

## EVIDENCE CONTROL LOG

PAGE 1 OF 9

CASE NUMBER \_\_\_\_\_ INVESTIGATION TITLE \_\_\_\_\_ ADDRESS \_\_\_\_\_  
 DATE 11/18/2010 TIME ON SITE \_\_\_\_\_ WEATHER CONDITIONS cloudy TEMP 50°  
 EVIDENCE TECH HART SCHEMATIC ARTIST \_\_\_\_\_ PHOTOGRAPHER STITES

EXHIBIT NUMBER	TIME	DESCRIPTION OF EVIDENCE	FOUND AT	FOUND BY	PHOTO CROSS REF ROLL/PHOTO NO.
1	1739	Financial documents	Desk in garage office	STITES	43
2	1740	Multiple sale agreement	Desk in garage office	STITES	44
3	1742	Full auto conversion of AK47 Booklet	Desk in garage office	STITES	45
4	1742	Business documents	Desk in garage office	STITES	46
5	1745	Box of business cards	Desk in garage office	STITES	47
6	1748	Firearms ledger	Safe in garage office	Livienksi	48
7	1752	W/AC membership card and gun show listing	Safe door in garage office	Livienksi	49
8	1810	Ruger 10/22 Rifle .22 caliber 5455-91023	Garage office next to couch	Livienksi	

EVIDENCE TECH. \_\_\_\_\_

POD \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

signature \_\_\_\_\_

## EVIDENCE CONTROL LOG

PAGE 2 OF 9

CASE NUMBER \_\_\_\_\_ INVESTIGATION TITLE \_\_\_\_\_ ADDRESS \_\_\_\_\_

DATE \_\_\_\_\_ TIME ON SITE \_\_\_\_\_ WEATHER CONDITIONS \_\_\_\_\_ TEMP \_\_\_\_\_

EVIDENCE TECH \_\_\_\_\_ SCHEMATIC ARTIST \_\_\_\_\_ PHOTOGRAPHER \_\_\_\_\_

EXHIBIT NUMBER	TIME	DESCRIPTION OF EVIDENCE	FOUND AT	FOUND BY	PHOTO CROSS REF ROLL/PHOTO NO.
9.	1818	Office paperwork & business documents	Main residence garage connected to couch	STITES	50
10	1830	Ruger 1022 R. file SN: 246-48818 24R caliber	"	LIWIENSKI	
11	1837	Rock Island Arsenal model 1903 30-06 SM373185	"	WALLACE	
12	1839	Plum Crazy Firearms model: C15 .223 cal. SN: R107856	"	WALLACE	
13	1840	Hornet model: 1500 22-250 R. file SN: B029181	"	WALLACE	
14		Ruger M337 R. file cal. 458 LWM SN: 73-7105		STITES	
15		Melvin model 937M R. file cal. 22win SN: 94630096		WALLACE	
16		Thompson submachine gun model: Remington cal.			

EVIDENCE TECH. \_\_\_\_\_

POD \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

signature \_\_\_\_\_

## EVIDENCE CONTROL LOG

PAGE 3 OF 9

CASE NUMBER \_\_\_\_\_ INVESTIGATION TITLE \_\_\_\_\_ ADDRESS \_\_\_\_\_  
 DATE \_\_\_\_\_ TIME ON SITE \_\_\_\_\_ WEATHER CONDITIONS \_\_\_\_\_ TEMP \_\_\_\_\_  
 EVIDENCE TECH \_\_\_\_\_ SCHEMATIC ARTIST \_\_\_\_\_ PHOTOGRAPHER \_\_\_\_\_

EXHIBIT NUMBER	TIME	DESCRIPTION OF EVIDENCE	FOUND AT	FOUND BY	PHOTO CROSS REF ROLL/PHOTO NO.
16	1844	Savage model 43 A17 cal. 174mc S/N: 088946	LARGE GARBAGE	Wallace	
17	1845	Savage model 11 Rifle cal. 300 win S/N: 6760470		STITES	
18	1846	Springfield A207 30-06 S/N: 16045		WALLACE	
19	1849	Bugier model M77 300WM 74-24016		STITES	
20	1849	Brown's model 3AM2 7mm Rem Mag, 107AMV31274		HAALT	
21	1851	Bushmaster, XM15-2ES 223 L495198		CLINE	
22	1851	Winchester, Model 70+R 25-06 Rem G1774644	✓	STITES	
23	1853	NORINCO, unknown model S/N 27017581			

EVIDENCE TECH. \_\_\_\_\_

POD \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

Signature \_\_\_\_\_



## EVIDENCE CONTROL LOG

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CASE NUMBER \_\_\_\_\_ INVESTIGATION TITLE \_\_\_\_\_ ADDRESS \_\_\_\_\_  
 DATE \_\_\_\_\_ TIME ON SITE \_\_\_\_\_ WEATHER CONDITIONS \_\_\_\_\_ TEMP \_\_\_\_\_  
 EVIDENCE TECH \_\_\_\_\_ SCHEMATIC ARTIST \_\_\_\_\_ PHOTOGRAPHER \_\_\_\_\_

EXHIBIT NUMBER	TIME	DESCRIPTION OF EVIDENCE	FOUND AT	FOUND BY	PHOTO CROSS REF ROLL/PHOTO NO.
24	1853	Mossberg, 800B 243WIN 259899	LALBE GARAGE	HART	
25	1853	Winchester 70XTR Sp. MATC 338WIN MATC, R2010300		CLINE	
26	1854	Spence, 99E-model 213WIN 1064345		STITES	
27	1855	Buyer model 10/22 22 126-65855		HART	
28	1856	Century Arms, AK pistol 7.62x39 AKP-C900219		CLINE	
29	1856	Romanian AK47 7.62x39 1983[S-81054]		HART	
30	1857	Keystone Sp. Arms Critch 22 69439		CLINE	
31	1858	Remington, 721-model 30-06, 325037	A	STITES	

EVIDENCE TECH. \_\_\_\_\_

POD \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

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## EVIDENCE CONTROL LOG

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CASE NUMBER \_\_\_\_\_ INVESTIGATION TITLE \_\_\_\_\_ ADDRESS \_\_\_\_\_  
 DATE \_\_\_\_\_ TIME ON SITE \_\_\_\_\_ WEATHER CONDITIONS \_\_\_\_\_ TEMP \_\_\_\_\_  
 EVIDENCE TECH \_\_\_\_\_ SCHEMATIC ARTIST \_\_\_\_\_ PHOTOGRAPHER \_\_\_\_\_

EXHIBIT NUMBER	TIME	DESCRIPTION OF EVIDENCE	FOUND AT	FOUND BY	PHOTO CROSS REF ROLL/PHOTO NO.
32	1900	Olympic Arms, AR-05 223 Multi, MX1366	GARAGE-LARGE	HART	
33	1901	Remington 870-model 12 GA AB762970M		CLINE	
34	1902	Pomona SA Lucin AK PL-00369-2002		HART	
35	1903	Remington 548-model 44 MAG. 58-97951		CLINE	
36	1903	Russian AKS KS KO1242 7.62x39mm CCP 56022		STITES	
37	1904	Ruger 1917 338win mag 74-87897		HART	
38	1905	Desert Eagle pistol AR-050NE 37204326		CLINE	
39	1905	Remington, model 744 223 8/P 24850700130		STITES	

EVIDENCE TECH. \_\_\_\_\_

POD \_\_\_\_\_

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# EVIDENCE CONTROL LOG

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CASE NUMBER \_\_\_\_\_ INVESTIGATION TITLE \_\_\_\_\_ ADDRESS \_\_\_\_\_  
 DATE \_\_\_\_\_ TIME ON SITE \_\_\_\_\_ WEATHER CONDITIONS \_\_\_\_\_ TEMP \_\_\_\_\_  
 EVIDENCE TECH \_\_\_\_\_ SCHEMATIC ARTIST \_\_\_\_\_ PHOTOGRAPHER \_\_\_\_\_

EXHIBIT NUMBER	TIME	DESCRIPTION OF EVIDENCE	FOUND AT	FOUND BY	PHOTO CROSS REF ROLL/PHOTO NO.
40	1911	SAVAGE ENFIELD .303 SAC3487	Large Garage	HART	
41	1912	SAVAGE model 114	" "	STILES	
42	1912	Remington 6605989	" "	STILES	
43	1913	Remington SKS 7.62X.39 s/w 11603299	" "	HARTS	
44	1914	Remington SKS 7.62X.39 295619	" "	STILES	
45	1914	ESG-S model ATC 22LR A285493		HARTS	
46	1916	Vucan 412 45ACP EST152	Large Garage	CLINE	
47	1917	Colani SPARTER 223 GLN03085	" "	STILES	
48	1917	MACCUM 1849 44 mag 17235326	" "	HART	

EVIDENCE TECH \_\_\_\_\_

POD \_\_\_\_\_

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## EVIDENCE CONTROL LOG

PAGE 1 OF 9

CASE NUMBER \_\_\_\_\_ INVESTIGATION TITLE \_\_\_\_\_ ADDRESS \_\_\_\_\_

DATE \_\_\_\_\_ TIME ON SITE \_\_\_\_\_ WEATHER CONDITIONS \_\_\_\_\_ TEMP \_\_\_\_\_

EVIDENCE TECH \_\_\_\_\_ SCHEMATIC ARTIST \_\_\_\_\_ PHOTOGRAPHER \_\_\_\_\_

EXHIBIT NUMBER	TIME	DESCRIPTION OF EVIDENCE	FOUND AT	FOUND BY	PHOTO CROSS REF ROLL/PHOTO NO.
48	1918	Brown 77 Mark 2 3382M 792-33480	Large Garage	Cline	
49	1921	Brown 12 GA 16403M W121		HART	
50	1924	GSC / GSG-5 PK 22 LR 4290747		Cline	
51	1924	MARLIN 25MM 22 WMC 00389980		HART	
52	1929	Stu, 40 VE 40 cal. PBF5208		Cline	
53	1929	BROWNING, Buckmark 22 LR 515MW21001		Cline	
54	1931	CALT, POLICE POSITIVE 38 S&W 241754		Cline	
55	1932	GERMAN M2579 9mm MAK		Cline	

EVIDENCE TECH. \_\_\_\_\_

POD \_\_\_\_\_

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## EVIDENCE CONTROL LOG

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CASE NUMBER \_\_\_\_\_ INVESTIGATION TITLE \_\_\_\_\_ ADDRESS \_\_\_\_\_

DATE \_\_\_\_\_ TIME ON SITE \_\_\_\_\_ WEATHER CONDITIONS \_\_\_\_\_ TEMP \_\_\_\_\_

EVIDENCE TECH \_\_\_\_\_ SCHEMATIC ARTIST \_\_\_\_\_ PHOTOGRAPHER \_\_\_\_\_

EXHIBIT NUMBER	TIME	DESCRIPTION OF EVIDENCE	FOUND AT	FOUND BY	PHOTO CROSS REF ROLL/PHOTO NO.
56	1936	COBALT MI-3mm 87-0003194	CHASE GARAGE	CLINE	
57	1937	UZI, 1941, 279mm/45 H207		CLINE	
58	1938	CHICO MICRO 22LR G006832		CLINE	
59	1942	COBALT M12 380 12-0015565		CLINE	
60	1943	SPAINFIELD XD 40SM US415725		CLINE	
61	1944	GSG 1941 22LR A373743		CLINE	
62	1946	Clock, 19 9mm PFL144		CLINE	
63	1947	Star 460XVR 460 CSK 9684	↓	CLINE	

EVIDENCE TECH. \_\_\_\_\_

POD \_\_\_\_\_

TELEPHONE NO. \_\_\_\_\_

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# EVIDENCE CONTROL LOG

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CASE NUMBER \_\_\_\_\_ INVESTIGATION TITLE \_\_\_\_\_ ADDRESS \_\_\_\_\_  
 DATE \_\_\_\_\_ TIME ON SITE \_\_\_\_\_ WEATHER CONDITIONS \_\_\_\_\_ TEMP \_\_\_\_\_  
 EVIDENCE TECH \_\_\_\_\_ SCHEMATIC ARTIST \_\_\_\_\_ PHOTOGRAPHER \_\_\_\_\_

EXHIBT NUMBER	TIME	DESCRIPTION OF EVIDENCE	FOUND AT	FOUND BY	PHOTO CROSS REF ROLL/PHOTO NO.
64	1948	STERLING, 400 380 B01052	LAHAG GARAGE	CLINE	
65	1949	EIG 3357 357 SP1012		CLINE	
66	1955	ATF DRAWING LETTER DATED 2005	Connected Garage Desk	WHUACE	
67	2005	SMS Airweight 3850L DAE2667	File Drawer	WHUACE	

EVIDENCE TECH \_\_\_\_\_  
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 TELEPHONE NO. \_\_\_\_\_  
 Signature \_\_\_\_\_